

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MEGA CONCRETE, INC., et al. : CIVIL ACTION  
:   
v. :   
:   
MICHAEL SMITH, et al. : NO. 09-4234

ORDER

AND NOW, this 15th day of July, 2013, upon consideration of the motion for judgment on the pleadings filed by defendants Jerry Frajdenberg and U.S. Concrete, Inc. ("U.S. Concrete Defendants") (Docket No. 151), the motion to dismiss filed by defendants Michael Smith and Paramount Concrete Construction, Inc. ("Smith Defendants") (Docket No. 144), and the briefs in support of and opposition to those motions, and following oral argument held on October 12, 2012, IT IS HEREBY ORDERED, for the reasons stated in a memorandum bearing today's date, that the U.S. Concrete Defendants' motion is GRANTED and the Smith Defendants' motion is GRANTED IN PART and DENIED IN PART. IT IS FURTHER ORDERED that:

1. Judgment is hereby ENTERED in favor of the U.S. Concrete Defendants on Counts III and IV of the Second Amended Complaint.

2. The Smith Defendants' motion to dismiss is GRANTED with respect to Counts III and IV, and those counts against the Smith Defendants are DISMISSED with prejudice.

3. The Smith Defendants' motion to dismiss is DENIED with respect to Counts I, II, and V.

4. On or before July 22, 2013, the U.S. Concrete Defendants shall provide the Court with a written submission outlining their view as to how the Court should proceed with respect to the remaining state law claims against them. The plaintiffs may respond by written submission of their own on or before July 29, 2013.

5. Pursuant to the Court's Order of November 30, 2012 (Docket No. 176), any Daubert motion, summary judgment motion, or other dispositive motion, together with supporting brief, shall be filed on or before August 14, 2013, which is thirty (30) days from the date of this Order.

BY THE COURT:

/s/ Mary A. McLaughlin  
MARY A. McLAUGHLIN, J.